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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/809,973 | 03/25/2004 | Wolfgang Senge | 12431/3 | 7896 |
| 757 | 7590 | 11/22/2005 | EXAMINER | |
| BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610 | | | COCKS, JOSIAH C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3749 | |

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,973

Applicant(s)

SENGE, WOLFGANG

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Request for Reconsideration

1. Receipt of applicant's response filed 9/15/2005 is acknowledged.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Germany on 3/26/2003 and 7/8/2003. Certified copy of the German applications were filed 9/15/2005.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-13, 15-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,300,556 to Ochi et al. ("Ochi").

Ochi discloses in Figures 1-18 the invention in the same field of endeavor as applicant's invention and as described in applicant's claims 11-13, 15-21, and 23. In particular, Ochi shows a beauty device in which water supplied via nozzle (8) to a chamber (10) is heated by means of a heater (16). This chamber (10) is considered to be the boiling chamber recited in applicant's claims. Further, the device in Ochi includes a reservoir (3), a collection chamber (12), and an

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inflow pipe (7) coupling the reservoir to the boiling chamber to steam openings (11 or 111, and 220). The reservoir (3) is located below the collection chamber (12) and the boiling chamber (10) and includes an outflow pipe (see at least outflow port of tank 27).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochi, as applied to the claims above, in view of U.S. Patent No. 5,607,409 to John ("John").

Ochi discloses all the limitations of claims 14, 22, and 24 except for the presence of an herb pot for enriching the steam with essential oils or possibly for a removable lid over the steam space.

John teaches a steam treatment device that is considered to be in the same field of endeavor as Ochi. In John, the treatment device includes an herb pot (24) located above a water reservoir (11) for allowing therapeutic substances, such as herbs (see col. 3, lines 55-57) to be mingled with steam. John further includes a removable lid (26)

Therefore, in regard to claims 14, 22, and 24, it would have been obvious to a person of ordinary skill in the art at the time of the invention would have modified the device of Ochi to incorporate the herb pot of John to desirably allowing herbs to mixed with steam to provide for

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enhanced skin treatment and aromatherapy (see John, col. 2, lines 36-45). Further, it would have been obvious to modify Ochi to incorporate the lid of John to desirably firmly lock a container compartment and force steam out through its intended path (see John, col. 3, lines 60-63).

Response to Arguments

7. Applicant's arguments filed 9/15/2005 regarding claims 11-24 have been fully considered but they are not persuasive.

Applicant argues that the hood (10) of Ochi is not properly considered a boiling chamber as claimed. The examiner does not agree. The hood (10) of Ochi is clearly a chamber as claimed that is capable of functioning as a boiling chamber in that it produces a spray of steam. The function is expressly stated in Ochi, which states "...a mixed stream of the thus heated air and mist in the form of a *hot steam* is delivered..."(Ochi, col. 4, lines 58-60) (*emphasis added*). Accordingly, the term "boiling chamber" does not describe any structure or function not present in Ochi.

Applicant also argues that there is no outflow pipe leading to the reservoir, referring to applicant's claim 12. However, the examiner notes that the outflow pipe of the tank (27) in Ochi meets this structural limitation. This claim does not require that the outflow pipe must originate from the collection chamber.

Applicant further argues that the hood/boiling chamber (10) of Ochi does not have a plurality of openings for the steam. However, Ochi suggests that the this chamber (10) may be replaced by other chambers (such as 110) based on the type of the desired area of treatment (note col. 7, lines 1-20). The arrangement of the hood (110) includes an opening (111) in the sidewall

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(substantially identical to opening 11) and a second opening (220) that would also function as a steam outlet (see col. 15, lines 45-50) in the side wall. Accordingly, the examiner does not agree with applicant's assertion that the recitation of a plurality of openings patentably distinguishes applicant's invention.

In regard to the assertion of distinction based on limitations drawn to a inflow pipe curved adjacent the steam outlet or partially curved around the boiling chamber, these limitations are considered met by the inflow pipe (8) which as illustrated in Fig. 3 is shown to be partially curved and is considered to be adjacent to the steam outlets.

Accordingly, applicant's claims 11-24 are not considered to patentably distinguish applicant's invention over the prior art.

Allowable Subject Matter

8. Claims 1-10 are allowed.

The following is an examiner's statement of reasons for allowance: Applicant argues that the prior art of record does not show the combination of structure presented in claims 1-10 including the presence of a backflow pipe through which surplus water flows from the collecting chamber to the reservoir. The examiner finds this argument persuasive. Accordingly, the prior art of record is not considered to teach or suggest the steam treatment device as recited in claim 1, including the claimed structure and relationship between the boiling chamber, collecting chamber, reservoir, and the inflow, backflow and steam pipes.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

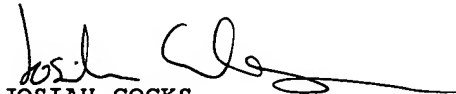
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg, can be reached at (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
November 16, 2005


JOSIAH COCKS
PRIMARY EXAMINER
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